

## NOTICE OF PROPOSED NEW RULE

- The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301 and Subsection 53C-1-201(3)(c).
- Please address questions regarding information on this notice to the agency.
- The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- The full text of all rule filings may also be inspected at the Division of Administrative Rules.

### Agency Information

1. Agency: Insurance - Title and Escrow Commission  
 Room no.: 3110  
 Building: STATE OFFICE BLDG  
 Street address 1: 450 N MAIN ST  
 Street address 2:  
 City, state, zip: SALT LAKE CITY UT 84114-1201  
 Mailing address 1: PO BOX 146901  
 Mailing address 2:  
 City, state, zip: SALT LAKE CITY UT 84114-6901

#### Contact person(s):

| Name:         | Phone:       | Fax:         | E-mail:          |
|---------------|--------------|--------------|------------------|
| Jilene Whitby | 801-538-3803 | 801-538-3829 | jwhitby@utah.gov |

(Interested persons may inspect this filing at the above address or at DAR during business hours)

### Rule Information

DAR file no: 38824      Date filed: 08/28/2014 02:35 PM  
 State Admin Rule Filing Key: 155530  
 Utah Admin. Code ref. (R no.): R 592 - 16 -

### Title

2. Title of rule or section (catchline):  
 Prohibited Escrow Settlement Closing Transactions.

### Notice Type

3. Type of notice: New Rule

### Rule Purpose

4. Purpose of the rule or reason for the change:  
 This rule replaces Bulletin 2007-1, Prohibited Escrow Settlement Closing Transactions. The purpose of this rule is to identify certain escrow practices involving two or more back to back sales and purchases of the same parcel of real property, which the Title and Escrow Commission (Commission) finds may violate the insurance code or rules.

## Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.  
No

## Rule Summary

6. Summary of the rule or change:  
The rule defines a land flip and then describes a permitted and prohibited escrow flip transaction.

## Aggregate Cost Information

7. Aggregate anticipated cost or savings to:
- A) State budget:  
Affected: No  
The rule provides permitted and prohibited escrow procedures for a flip transaction. Those found to be in violation of this rule may be required to pay a forfeiture that would go into the state fund. Forfeiture amounts would vary depending on the severity of the violation.
- B) Local government:  
Affected: No  
The implementation of this rule will have no fiscal impact on local governments. The rule deals solely with the process of a flip transaction by a title licensee.
- C) Small businesses:  
Affected: No  
("small business" means a business employing fewer than 50 persons)  
This rule specifically requires title insurance agencies involved in property flip transactions to use separate and distinct funds for each transaction. This rule is being promulgated to stop the practice of using the same funds for multiple transactions in a flip. Each transaction is to stand on its own financially. This may slow the process of flipping a property. As a result, slowing the flow of income may reduce the income. Not all licensees participate in the practice of flipping properties without properly funding each transaction. The fiscal impact will vary for those that do and now are not allowed to. The department has no way of calculating the impact on these licensees.
- D) Persons other than small businesses, businesses, or local government entities:  
Affected: No  
("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)  
This rule specifically requires title insurance licensees, agencies and individuals, involved in property flip transactions to use separate and distinct funds for each transaction. This rule is being promulgated to stop the practice of using the same funds for multiple transactions in a flip. Each transaction is to stand on its own financially. This may slow the process of flipping a property. As a result, slowing the flow of income may reduce the income. Not all licensees participate in the practice of flipping properties without properly funding each transaction. The fiscal impact will vary for those that do and now are not allowed to. The department has no way of calculating the impact on these licensees.

## Compliance Cost Information

8. Compliance costs for affected persons:  
Not all licensees participate in the practice of flipping properties without proper funding for each transaction, and those that do, vary in how often they flip properties. As a result the fiscal impact of

this rule, if any, will vary among those that participate in this practice. It cannot be calculated by the department.

#### Department Head Comments

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:  
Any fiscal impact to businesses will be to those title licensees that have not used separate and distinct funds for multiple transactions in a flip. It is, however, a measure that protects individuals that could unknowingly be involved in a prohibited flip transaction not properly funded that could be financially harmful to them.
- B) Name and title of department head commenting on the fiscal impacts:  
Todd E. Kiser, Insurance Commissioner

#### Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.  
State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :  
31A-2-404(2)

#### Incorporated Materials

11. This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page):  
Publisher:  
Date Issued:  
Issue, or version:  
ISBN Number:  
ISSN Number:  
Cost of Incorporated Reference:  
Adds, updates, removes:

#### Comments

12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) : 10/27/2014

B) A public hearing (optional) will be held:

On (mm/dd/yyyy): At (hh:mm  
AM/PM):

10/20/2014

09:00 AM

At (place):

420 N. State St., Copper Rm of East Senate Bldg, Salt Lake City, UT 84114

## Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy): 11/03/2014

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After a minimum of seven days following the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

## Indexing Information

14. Indexing information - keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):  
escrow insurance flip

## File Information

15. Attach an RTF document containing the text of this rule change (filename):  
There is a document associated with this rule filing.

## To the Agency

Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin, and delaying the first possible effective date.

## Agency Authorization

Agency head or designee, and title:

Todd Kiser  
Commissioner

Date 08/28/2014  
(mm/dd/yyyy):